

House File 2468 - Introduced

HOUSE FILE 2468

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 658)

A BILL FOR

1 An Act relating to the administration of the tax and related
2 laws by the department of revenue, including the renewable
3 energy tax credit, the solar energy system tax credit,
4 appeal procedures for certain centrally assessed property,
5 an extension of the utility replacement tax task force,
6 requiring background checks for job applicants and persons
7 performing work for the department of revenue, a sales and
8 use tax exemption for certain items used in performance of
9 a construction contract with designated exempt entities,
10 and including effective date and retroactive and other
11 applicability provisions.
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **421.48 Background checks.**

2 An applicant for employment with the department of revenue
3 shall be subject to a national criminal history check through
4 the federal bureau of investigation. A contractor, vendor,
5 employee, or any other individual performing work for the
6 department of revenue, shall be subject to a national criminal
7 history check through the federal bureau of investigation
8 at least once every ten years. The department of revenue
9 shall request the national criminal history check and shall
10 provide the individual's fingerprints to the department
11 of public safety for submission through the state criminal
12 history repository to the federal bureau of investigation.
13 The individual shall authorize release of the results of the
14 national criminal history check to the department of revenue.
15 The department of revenue shall pay the actual cost of the
16 fingerprinting and national criminal history check, if any.
17 The results of a criminal history check conducted pursuant to
18 this section shall not be considered a public record under
19 chapter 22.

20 Sec. 2. Section 422.11L, subsection 3, paragraph d, Code
21 2016, is amended to read as follows:

22 d. (1) A taxpayer must submit an application to the
23 department for each separate and distinct solar installation.
24 The application must be approved by the department in order to
25 claim the tax credit. The department shall accept and approve
26 applications on a first-come, first-served basis until the
27 maximum amount of tax credits that may be claimed pursuant to
28 subsection 4 is reached. However, an application must be filed
29 by May 1 following the year of the installation of the solar
30 energy system in order to be eligible for approval for the
31 tax year during which the solar energy system was installed.
32 Applications filed later than May 1 following the year of the
33 installation will be eligible for approval for the tax year
34 during which the application is received.

35 (2) If for a tax year the aggregate amount of tax credits

1 applied for exceeds the amount specified in subsection 4,
 2 the department shall establish a wait list for tax credits.
 3 Valid applications filed by the taxpayer but not approved by
 4 the department shall be placed on a wait list in the order
 5 the applications were received and those applicants shall
 6 be given priority for having their applications approved
 7 in succeeding years. Placement on a wait list pursuant to
 8 this subparagraph shall not constitute a promise binding the
 9 state. The availability of a tax credit and approval of a tax
 10 credit application pursuant to this section in a future year
 11 is contingent upon the availability of tax credits in that
 12 particular year.

13 Sec. 3. Section 423.3, subsection 80, Code 2016, is amended
 14 to read as follows:

15 80. *a.* For purposes of this subsection, "*designated exempt*
 16 *entity*" means an any of the following:

17 (1) An entity which is designated in section 423.4,
 18 subsection 1 or 6.

19 (2) An entity which is an instrumentality of a county or
 20 municipal government, including an agent of such entity, if
 21 the entity was created for the purpose of owning, including
 22 pursuant to a lease-purchase agreement, real property located
 23 within a reinvestment district established under chapter 15J.

24 *b.* If Subject to the limitations in paragraph "c", if
 25 a contractor, subcontractor, or builder is to use building
 26 materials, supplies, and equipment in the performance of a
 27 construction contract with a designated exempt entity, the
 28 person shall purchase such items of tangible personal property
 29 without liability for the tax if such property will be used in
 30 the performance of the construction contract and a purchasing
 31 agent authorization letter and an exemption certificate, issued
 32 by the designated exempt entity, are presented to the retailer.

33 *c.* (1) The With regard to a construction contract with
 34 a designated exempt entity described in paragraph "a",
 35 subparagraph (1), the sales price of building materials,

1 supplies, or equipment is exempt from tax by this subsection
 2 only to the extent the building materials, supplies, or
 3 equipment are completely consumed in the performance of the
 4 construction contract with the designated exempt entity.

5 (2) With regard to a construction contract with a designated
 6 exempt entity described in paragraph "a", subparagraph (2),
 7 the sales price of building materials, supplies, or equipment
 8 is exempt from tax by this subsection only to the extent the
 9 building materials, supplies, or equipment are completely
 10 consumed in the performance of a construction contract to
 11 construct a project, as defined in section 15J.2, subsection
 12 10, which project has been approved by the economic development
 13 authority board in accordance with chapter 15J.

14 ~~e. d.~~ Where Subject to the limitations in paragraph "c",
 15 where the owner, contractor, subcontractor, or builder is also
 16 a retailer holding a retail sales tax permit and transacting
 17 retail sales of building materials, supplies, and equipment,
 18 the tax shall not be due when materials are withdrawn from
 19 inventory for use in construction performed for a designated
 20 exempt entity if an exemption certificate is received from such
 21 entity.

22 ~~d. e.~~ Tax Subject to the limitations in paragraph "c", tax
 23 shall not apply to tangible personal property purchased and
 24 consumed by a manufacturer as building materials, supplies, or
 25 equipment in the performance of a construction contract for a
 26 designated exempt entity, if a purchasing agent authorization
 27 letter and an exemption certificate are received from such
 28 entity and presented to a retailer.

29 Sec. 4. Section 429.2, subsection 2, paragraph c, Code 2016,
 30 is amended to read as follows:

31 c. The director of revenue shall consider all evidence and
 32 witnesses offered by the taxpayer and the department, including
 33 but not limited to evidence relating to the proper valuation of
 34 the property involved.

35 Sec. 5. Section 437A.15, subsection 7, paragraph b, Code

1 2016, is amended to read as follows:

2 **b.** The task force shall study the effects of the replacement
3 taxes under **this chapter** and **chapter 437B** on local taxing
4 authorities, local taxing districts, consumers, and taxpayers
5 through January 1, ~~2016~~ **2019**. If the task force recommends
6 modifications to the replacement tax that will further the
7 purposes of tax neutrality for local taxing authorities, local
8 taxing districts, taxpayers, and consumers, consistent with the
9 stated purposes of **this chapter**, the department of management
10 shall transmit those recommendations to the general assembly.

11 Sec. 6. Section 437B.11, subsection 7, Code 2016, is amended
12 to read as follows:

13 7. The utility replacement tax task force created in section
14 437A.15 shall study the effects of the replacement tax on
15 local taxing authorities, local taxing districts, consumers,
16 and taxpayers through January 1, ~~2016~~ **2019**. If the task
17 force recommends modifications to the replacement tax that
18 will further the purposes of tax neutrality for local taxing
19 authorities, local taxing districts, taxpayers, and consumers,
20 consistent with the stated purposes of **this chapter**, the
21 department of management shall transmit those recommendations
22 to the general assembly.

23 Sec. 7. Section 476C.3, subsection 4, paragraph b,
24 subparagraph (3), Code 2016, is amended to read as follows:

25 (3) (a) Of the maximum amount of energy production capacity
26 equivalent of all other facilities found eligible under this
27 chapter, ten megawatts of nameplate generating capacity or
28 energy production equivalent shall be reserved for solar energy
29 conversion facilities ~~with~~ that meet all of the following
30 requirements:

31 (i) The facility has a generating capacity of one and
32 one-half megawatts or less.

33 (ii) The facility is owned, in whole or in part, directly
34 or indirectly, or is contracted for, by utilities described in
35 section 476C.1, subsection 6, paragraph "b", subparagraphs (4)

1 and (5).

2 (iii) The facility is located in this state.

3 (iv) The facility meets the requirements of section 476C.1,
4 subsection 6, paragraphs "d" through "f".

5 (b) A solar energy conversion facility that meets the
6 requirements of and is found eligible under subparagraph
7 division (a) shall be considered an "eligible renewable energy
8 facility" for purposes of this chapter, notwithstanding any
9 contrary provisions of section 476C.1, subsection 6.

10 Sec. 8. Section 476C.3, subsection 7, Code 2016, is amended
11 to read as follows:

12 7. a. An owner meeting the requirements of section 476C.1,
13 subsection 6, paragraph "b", shall not be an owner of more than
14 two eligible renewable energy facilities. A person that has
15 an equity interest equal to or greater than fifty-one percent
16 in an eligible renewable energy facility shall not have an
17 equity interest greater than ten percent in any other eligible
18 renewable energy facility. This paragraph "a" shall not apply
19 to facilities described in section 476C.3, subsection 4,
20 paragraph "b", subparagraph (3).

21 b. An entity described in section 476C.1, subsection 6,
22 paragraph "b", subparagraphs (4) or (5), shall not have an
23 ownership interest in more than four facilities described in
24 section 476C.3, subsection 4, paragraph "b", subparagraph (3).

25 Sec. 9. EFFECTIVE UPON ENACTMENT. The following
26 provision or provisions of this Act, being deemed of immediate
27 importance, take effect upon enactment:

28 1. The section of this Act amending section 421.48.

29 2. The section of this Act amending section 423.3,
30 subsection 80.

31 3. The section of this Act amending section 429.2.

32 4. The section of this Act amending section 437A.15.

33 5. The section of this Act amending section 437B.11.

34 6. The sections of this Act amending section 476C.3.

35 Sec. 10. RETROACTIVE APPLICABILITY. The section of this Act

1 amending section 422.11L, subsection 3, applies retroactively
2 to January 1, 2014, for tax years beginning and installations
3 occurring on or after that date. However, tax credit
4 applications filed after May 1, 2015, for solar energy systems
5 installed during the 2014 calendar year shall be eligible for
6 approval for the first time for the tax year that begins during
7 the 2016 calendar year.

8 Sec. 11. RETROACTIVE APPLICABILITY. The following
9 provision or provisions of this Act apply retroactively to
10 January 1, 2015, for construction contracts entered into on or
11 after that date:

12 1. The section of this Act amending section 423.3,
13 subsection 80.

14 Sec. 12. RETROACTIVE APPLICABILITY. The following
15 provision or provisions of this Act apply retroactively to
16 January 1, 2016:

17 1. The section of this Act amending section 437A.15.

18 2. The section of this Act amending section 437B.11.

19 Sec. 13. RETROACTIVE APPLICABILITY. The following
20 provision or provisions of this Act apply retroactively to
21 January 1, 2015, for tax years beginning on or after that date:

22 1. The sections of this Act amending section 476C.3.

23 Sec. 14. RETROACTIVE APPLICABILITY. The following
24 provision or provisions of this Act apply retroactively to May
25 22, 2015:

26 1. The section of this Act amending section 429.2.

27 Sec. 15. RETROACTIVE APPLICABILITY. The following
28 provision or provisions of this Act apply retroactively to
29 applications for the renewable energy tax credit made on or
30 after June 26, 2015:

31 1. The sections of this Act amending section 476C.3.

32 Sec. 16. APPLICABILITY. The section of this Act amending
33 section 423.3, subsection 80, applies to purchases made on or
34 after the effective date of the section of this Act amending
35 section 423.3, subsection 80.

1 EXPLANATION

2 The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

4 This bill relates to the administration of the tax and
5 related laws by the department of revenue.

6 BACKGROUND CHECKS. The bill requires an applicant for
7 employment with the department of revenue (department) at
8 the time of application, or a contractor, vendor, employee,
9 or any other individual performing work for the department
10 to be subject to a national criminal history check through
11 the federal bureau of investigation (FBI) at least once
12 every 10 years. The bill directs the department to provide
13 fingerprints to the department of public safety for submission
14 through the state criminal history repository to the FBI, and
15 requires individuals to authorize release of the results to
16 the department. The department is required to pay the actual
17 costs of the fingerprinting and the criminal history check.
18 The bill provides that the results of a criminal history check
19 are not considered a public record under Code chapter 22 (open
20 records). This provision takes effect upon enactment.

21 SOLAR ENERGY SYSTEM TAX CREDIT. The bill amends the Iowa
22 solar energy system tax credit in Code section 422.11L, which
23 is provided for the installation of a solar energy system in an
24 amount equal to certain percentages of related federal solar
25 energy tax credits. Under current law, applications for the
26 tax credit must be filed by May 1 following the year of the
27 installation in order to be considered eligible for the tax
28 credit. The bill provides that applications must be filed by
29 May 1 following the year of the installation in order to be
30 eligible for approval for the tax year in which the system was
31 installed. Applications filed after that date will be eligible
32 for approval for the tax year during which the application is
33 received.

34 The bill requires that tax credit applications be accepted
35 and approved by the department on a first-come, first-served

1 basis until the maximum tax credit amount that may be claimed
2 each tax year is reached. If tax credit applications exceed
3 the maximum amount for a tax year, the bill requires the
4 department to establish a tax credit wait list, and valid
5 applications filed but not approved will be placed on the wait
6 list and given priority for having their application approved
7 in succeeding years. The bill states that placement on the
8 wait list does not constitute a promise binding the state,
9 and the availability of a tax credit and approval of a tax
10 credit application in a future year is contingent upon the
11 availability of tax credits in that particular year.

12 The solar energy system tax credit provisions apply
13 retroactively to January 1, 2014, for tax years beginning and
14 installations occurring on or after that date. However, the
15 bill provides that applications filed after May 1, 2015, for
16 solar energy systems installed during the 2014 calendar year
17 shall be eligible for approval for the first time for the 2016
18 tax year.

19 SALES AND USE TAXES. A sales tax exemption is provided under
20 current law to contractors, subcontractors, and builders for
21 the purchase of building materials, supplies, and equipment
22 completely consumed in the performance of a construction
23 contract with a designated exempt entity. The bill amends
24 the definition of "designated exempt entity" to include an
25 instrumentality of a county or municipal government, including
26 an agent of such entity, if the entity was created for the
27 purpose of owning, including pursuant to a lease-purchase
28 agreement, real property located within a reinvestment district
29 established under the Iowa Reinvestment Act in Code chapter
30 15J. The bill also provides that the purchase of building
31 materials, supplies, and equipment by such designated exempt
32 entities will only be exempt from the sales tax to the extent
33 such property is completely consumed in the performance of a
34 construction contract to construct a project that has been
35 approved by the economic development board under the Iowa

1 Reinvestment Act. The Iowa Reinvestment Act, in general,
2 authorizes municipalities to establish reinvestment districts
3 and receive remittances of specified amounts of state sales
4 tax and state hotel and motel tax revenues collected in those
5 districts for use in undertaking projects within the district.

6 By operation of Code section 423.6, an item exempt from the
7 imposition of the sales tax is also exempt from the use tax
8 imposed in Code section 423.5.

9 The sales and use tax provisions take effect upon enactment
10 and apply to purchases made on or after that date and apply
11 retroactively to January 1, 2015, for construction contracts
12 entered into on or after January 1, 2015.

13 CENTRALLY ASSESSED PROPERTY. The bill adds the department
14 of revenue to the list of parties for which the director of
15 revenue shall consider all offered evidence and witnesses
16 during an appeal of an assessment of certain property centrally
17 assessed by the department of revenue for purposes of property
18 taxation. This provision takes effect upon enactment and
19 applies retroactively to May 22, 2015.

20 UTILITY REPLACEMENT TAX TASK FORCE. The bill extends the
21 utility replacement tax task force to January 1, 2019, from
22 January 1, 2016. This task force was created to study the
23 effects of the replacement taxes on electricity and natural gas
24 providers and rate-regulated water utilities. This provision
25 takes effect upon enactment and applies retroactively to
26 January 1, 2016.

27 RENEWABLE ENERGY TAX CREDIT. The maximum amount of
28 renewable energy tax credits that may be issued under Code
29 chapter 476C is measured in part by the nameplate generating
30 capacity (NGC) of the eligible renewable energy facilities.
31 Under current law, 10 megawatts out of the total 63 megawatts
32 of NGC for which credits may be issued to facilities other
33 than wind conversion facilities is reserved for small solar
34 facilities owned or contracted for by electric cooperative
35 associations, municipally owned utilities, public utilities

1 subject to rate regulation, or electric cooperative
2 associations (specified utilities). For those small solar
3 facilities owned by the specified utilities, the bill removes
4 the requirement that the specified utility must own at least 51
5 percent of the facility and instead provides that the specified
6 utility must own the facility in whole or in part, directly or
7 indirectly.

8 Also under current law for purposes of qualifying for the tax
9 credit, an owner of an eligible renewable energy facility shall
10 not own more than two eligible renewable energy facilities, and
11 a person that has an equity interest of at least 51 percent
12 in an eligible renewable energy facility shall not have an
13 equity interest greater than 10 percent in any other eligible
14 renewable energy facility. The bill provides that these
15 restrictions shall not apply to the small solar facilities
16 described above, but does provide that a specified utility
17 shall not have an ownership interest in more than four small
18 solar facilities.

19 The renewable energy tax credit provisions take effect upon
20 enactment and apply retroactively to January 1, 2015, for tax
21 years beginning on or after that date, and apply retroactively
22 to applications for the renewable energy tax credit made on or
23 after June 26, 2015.